

**CITY OF LAKE STEVENS
CITY COUNCIL REGULAR MEETING MINUTES**

Tuesday, August 27, 2019

Lake Stevens School District Educational Service Center (Admin. Bldg.)
12309 22nd Street N.E. Lake Stevens

CALL TO ORDER: 7:00 p.m. by Mayor John Spencer

ELECTED OFFICIALS PRESENT: Councilmembers Kim Daughtry, Gary Petershagen, Kurt Hilt, Todd Welch, Rauchel McDaniel and Brett Gailey

ELECTED OFFICIALS ABSENT: Marcus Tageant

STAFF MEMBERS PRESENT: City Administrator Gene Brazel, Finance Director Barb Stevens, Community Development Director Russ Wright, Public Works Director Eric Durpos, Capital Projects Coordinator Aaron Halverson, Senior Engineer Grace Kane, Police Chief John Dyer, Commander Jeff Beazizo, IT Manager Troy Stevens, Human Resources Director Teri Smith, Human Resources/Executive Assistant Julie Good, City Clerk Kathy Pugh, City Attorney Greg Rubstello, IT Specialist Khader Welaye, Building Inspector/Code Enforcement Officer Scott Perron, Police Department Administrative Assistant Jessica Dreher and Associate Planner Sabrina Harris

OTHERS: Veterans Commissioners Vern Rasmussen, Karen Boe and Kevin McLarnon, and Arts Commissioners Jim Haugen, Laura Katz and Kate MacKenzie; Attorney Dan Swedlow from Summit Law

Pledge of Allegiance: Mayor Spencer led the pledge of allegiance.

Roll Call: Moved by Councilmember Daughtry, seconded by Councilmember Welch, to excuse Councilmember Tageant from the meeting. On vote the motion carried (6-0-0-1)

Approval of Agenda:

Councilmember Petershagen requested Consent Agenda Item B, City Council Special Meeting Minutes of August 7, 2019 be moved to Discussion items, saying he believes the minutes as they relate to the sign code discussion could be expanded and that would be helpful for future discussions.

MOTION: Moved by Councilmember McDaniel, seconded by Councilmember Hilt, to approve the agenda with noted change. On vote the motion carried (6-0-0-1).

Citizen Comments: None.

New Employee Introductions:

- IT Director Stevens introduced the new IT Support Specialist Khader Welaye.
- Community Development Director Wright introduced Sabrina Harris, who was recently promoted to Associate Planner, and the new Building Inspector/Code Enforcement Officer Scott Perron.
- Police Chief Dyer introduced the new Police Department Administrative Assistant, Jessica Dreher.

Council Business:

- Councilmember Daughtry: Veterans Appreciation Day on August 31, 2019, Veterans Services Officer.
- Councilmember Petershagen: Sewer District.
- Councilmember McDaniel: North Cove Park progress.

Mayor Spencer reminded that ultimately the Veterans Service Officer will be able to use space in the new Food Bank building.

City Department Report:

- City Administrator Gene Brazel: Thanked Human Resources Director Teri Smith for her service and wished her well in her future endeavors.
- Community Development Director Russ Wright: North Cove Park Phase II, Land Use hearing update.
- Public Works Director Eric Durpos: North Cove Park update, Village Way, South Lake Stevens Road, 91st Street Overlay completed.
- Human Resources Director Teri Smith: staffing update, Julie Good will be Interim Human Resources Director.
- Chief of Police John Dyer: June statistics, all categories lower in 2019 from 2018. Lake Stevens recently identified as best suburb in Washington state based on public safety, graffiti update, new building design update, staffing update.
- Finance Director Barb Stevens: Police Department financing update; Auditors tentatively scheduled to begin annual audit on September 23, 2019.

Consent Agenda:

MOTION: Moved by Councilmember Welch, seconded by Councilmember Petershagen, to approve:

- A. 2019 Vouchers [Payroll Direct Deposits of \$237,047.65, Payroll Check No. 48392 totaling \$1,836.83, Electronic Funds Transfers (ACH) of \$299,572.81, Claims Check Nos. 48393-48402, 48404-48538 totaling \$1,041,953.13, Void Check No. 48357 in the amount of \$4,500.00, Total Vouchers Approved: \$1,575,910.42];
- B. [Removed to Discussion Items];
- C. City Council Meeting Changes;
- D. Amendment No. 8 to Interlocal Agreement with Lake Stevens School District re School Resource Officer;
- E. Appointment to Arts Commission;
- F. Consent to Name Interim Human Resources Director/Risk Manager as Agent to Receive Claims for Damage; and

- G. Machias Industrial Annexation: Accept Updated 10% Annexation Petition and Authorize 60% Petition Circulation.

On vote the motion carried (6-0-0-1).

Mayor's Business: Mayor Spencer administered the Oath of Office to the new Arts Commissioners Jim Haugen, Laura Katz and Kate MacKenzie and the new Veterans Commission members Vern Rasmussen, Karen Boe and Kevin McLarnon. [Recording equipment malfunction in power supply, power plug replaced.]

Mayor Spencer introduced and read a Proclamation proclaiming the month of September as Childhood Cancer Awareness month, and then requested a motion endorsing the proclamation.

MOTION: Moved by Councilmember Welch, seconded by Councilmember Daughtry to support the Proclamation proclaiming September as Childhood Cancer Awareness month. On vote the motion carried (6-0-0-1).

Mayor Spencer then shared a letter he plans to send to the Lake Stevens Sewer District Commissioners tomorrow regarding their bond issues. He wanted to bring it to Council's attention and invited their questions and comments, and there were none.

Public Hearing: None.

Action Items:

Frontier Village Access Bid Award and Approve Contract with SRV Construction, Inc:

Public Work Director Durpos presented the staff report and said this project is to improve Frontier Village Access from 4th Street NE, and added the project is partially funded by a Washington Department of Transportation grant. He reviewed the bid process and said SRV Construction, Inc. submitted the lowest responsive bid at \$522,518.50. Staff recommends the bid be awarded to SRV Construction in that amount with an administrative contingency of \$78,381.50 for a total project amount of \$600,900.00. Work is expected to be completed before the end of this year. Director Durpos then invited questions from Council and there were none.

MOTION: Moved by Councilmember Hilt, seconded by Councilmember Welch, to award Project No. 18014 Frontier Village Access Improvement to SRVE Construction, Inc. and approve Public Works Contract with SRV Construction Inc. in the amount of \$522,518.50 with an authorized administrative contingency of \$78,381.50 (15%) for a total amount of \$600,900. On vote the motion carried (6-0-0-1).

Professional Services Contract with Welch Comer for Construction Management of

Frontier Village Way Access Improvement: Public Works Director Durpos presented the staff report and said this request is to award a Construction Management contract to Welch Comer for providing construction management and oversight of the Frontier Village Way Access Improvement project, just discussed. \$143,600 remains in the project budget, and the amount is sufficient to cover these construction administration services which are set out at \$79,000 in the Scope of Services. Staff is also requesting a 10% administrative contingency (\$7,900) for a total amount of \$86,900. Director Durpos noted the original staff report had an incorrect, higher dollar amount for these services, and \$79,000 is the correct amount. Director Durpos then invited questions from Council.

Responding to Councilmember Gailey's question, Director Durpos confirmed there will be approximately \$60,000 left that was originally budgeted for this project.

MOTION: Moved by Councilmember Welch, seconded by Councilmember Hilt, to authorize the Mayor to execute a Professional Services Agreement with Welch, Comer & Associates, Inc. to administer State funded construction administration services for Project No. 18014: Frontier Village Access Improvement in the amount of \$79,000 with an authorized 10% administrative contingency of \$7,900 for a total amount of \$86,900. On vote the motion carried (6-0-0-1).

South Lake Stevens Road Right of Way Acquisition: Director Durpos presented the staff report and said a portion of the property at 1529 S. Lake Stevens Road needs to be acquired to construct the South Lake Stevens Multi-Use Path. This property acquisition will square the property boundary of 1529 South Lake Stevens Road with the adjacent properties to the north and south and establish a consistent right-of-way line. The City has reached an agreement with the property owner to acquire the property for \$22,000. Director Durpos then invited questions from Council and there were none.

MOTION: Moved by Councilmember Daughtry, seconded by Councilmember Welch, to Authorize the Mayor to enter into a Purchase and Sale Agreement to Acquire 1,373 square feet of property at 1529 South Lake Stevens Road for \$22,000.00. On vote the motion carried (6-0-0-1).

Human Resources Director Salary Adjustment: Human Resources Director Smith presented the staff report and summarized when a non-represented position becomes vacant, past practice has been to review the job description as well as conduct an internal and external salary review prior to recruitment. This helps to ensure Lake Stevens is competitive and attractive to potential candidates, and this has been completed using the cities previously by Council for comparables. During this process it was discovered the Human Resources Director salary was approximately 13% below the market average. Due to internal equity considerations, the City Administrator and Mayor requested a salary survey of the City's other director classifications at the same time as the HR Director classification. Staff recommends the HR Director salary range be increased at this time to reflect the current market conditions with this increase taking effect upon the hiring of a new HR Director. The change in salary range for the other directors will be addressed in the budget process for 2020.

Responding to Councilmember Gailey's question, Director Smith said the reason to adjust the HR Director salary now is because the position is being recruited for now.

Councilmember McDaniel requested all salaries be kept at the present level and let the new Council address salary adjustments. She believes the City will receive qualified candidates without making the salary adjustment.

Councilmember Petershagen requested clarification on which positions would be adjusted and Director Smith responded the positions of Community Development Director, Finance Director, HR Director and Public Works Director.

Mayor Spencer clarified all salary adjustments except the HR director would be handled through the budget process. This is a request to adjust the HR Director salary to aid in recruitment for this position and the remaining salaries will be considered during the budget process.

City Administrator Brazel said for successful recruitment of qualified applicants it is critical that the salary range be competitive. He added this is an adjustment to the salary range, and a new employee does not necessarily start at the top of the salary range.

MOTION: Moved by Councilmember Welch, seconded by Councilmember Petershagen, to authorize a Change to the Human Resource Director classification from Salary Range NRE64 to NRE70 effective upon hire of the new director. On vote the motion carried (6-0-0-1).

Police Department Vehicle Purchase 2020: Police Chief Dyer presented the staff report and said the Police Department has over 30 vehicles in its fleet. To keep the fleet in operation a replacement cycle based on 5 years for patrol vehicles and 10 years for non-line vehicles was created. Police vehicles are purchased out of the Law Enforcement 520 Capital replacement funds. The full cost of these replacements is \$207,778.16. He noted the time from order to delivery date can be up to 6 to 8 months; this is a request to order the vehicles now, and they will be paid from the 2020 budget.

Chief Dyer then responded to Councilmember Gailey's question regarding the five-year fuel cost, saying the hybrid was selected due to the lower fuel cost, which is an approximate 40% savings.

Responding to Councilmember Daughtry's question, Commander Beazizo said the Ford Connect is a smaller vehicle, selected for use by the Evidence Clerk. Its size will accommodate the required usage.

MOTION: Moved by Councilmember McDaniel, seconded by Councilmember Welch, to Approve the ordering of four Police Vehicles in 2019 for replacement in 2020. On vote the motion carried (6-0-0-1).

Resolution 2019-14 Declaring the Official Intent to Reimburse for Acquisition of Real Property and Remodeling Costs of a Police Department Building: Finance Director Stevens presented the staff report and said the City Council approved the purchase of the Fire Conference Center on April 23, 2019 with the intent of remodeling the facility to house the Police Department. The City intends to finance the acquisition and remodeling costs through issuance of a bond. Staff is working with bond counsel to determine the best financing options and it is possible the sale will close prior to issuance of the bonds and the purchase will need to be made from other city funds. This resolution allows the City to reimburse itself from the proceeds of debt financing for costs incurred and paid for from other city funds. Director Stevens then invited questions Council and there were none.

MOTION: Moved by Councilmember Welch, seconded by Councilmember Hilt, to Approve Resolution 2019-14 Declaring the Official Intent of the City to Reimburse Itself from the Proceeds of Tax-Exempt Bonds for Costs of Acquiring Real Property for a Police Facility that may incur prior to issuance of such financing. On vote the motion carried (6-0-0-1).

Discussion Items:

Mayor Spencer noted there are two items, one is the August 7, 2019 meeting minutes, and the other is questions about advice that was given to people who have signs.

August 7, 2019 Special Meeting Minutes: Councilmember Petershagen commented a lot of time was spent in the August 7th meeting discussing the sign code, a lot of information was

presented, and there is a commitment to spend additional time including a public hearing and some action in the coming year. He believes it is important to have minutes that show more context of what was discussed. He would like to see the minutes expanded upon.

Mayor Spencer responded the City Clerk has already been asked to do this.

Councilmember McDaniel commented on what she understood were the changes made in Councilmember Daughtry's motion to remove the height and stake requirements, and believes the ordinance as published does not reflect the motion as made because the height and staking requirements were taken out, as was size.

Councilmember Daughtry responded size was in the original ordinance, which was not changed.

Councilmember McDaniel believes the ordinance as published is unconstitutional, and noted some people received notices about their signs and others did not. She asked if the Food Bank received a notice.

Discussion ensued between Councilmembers Welch and McDaniel as to whether the sign on the Food Bank property is exempt from the sign regulations and whether or not the City has a stake in the Food Bank project, with Councilmember Welch believing the City does have a stake in the project and Councilmember McDaniel believing this is a grey area. Councilmember McDaniel was also concerned about a political sign located on the Food Bank property.

Mayor Spencer shared his recollection that a request was made to pass a motion creating a new section dealing with temporary noncommercial signs, and that all of the terms of the current code regarding size, including height and other terms that limit signs in that way, and not the message, be carried forward. He believes this was Council's understanding at the time the motion was passed.

Councilmember Daughtry added the reason he requested height be removed is because it was not in the original ordinance.

Councilmember McDaniel responded that height may be important and referenced a tall sign on South Lake Stevens Road that found its way into the road; she said it may not have been anchored properly.

Councilmember Daughtry commented the premise of the change to the code was to make it compliant with the Constitution. The ordinance as written added regulations to the code instead of simply making it compliant, which he believes should have been the intent of the ordinance. The ordinance as originally written imposed more regulations on people who are not part of the issue, and Councilmember Daughtry believes this would be unfair. He added the code needs to be reviewed in a public process and the intent of his motion was to make the City's code compliant.

Councilmember McDaniel hopes at this point that everyone will be responsible. She is concerned that some signs are dangerously placed and requested that anyone in an election consider the public's safety when placing signs.

Mayor Spencer commented this is not an easy code to amend and it is going to take time. He spoke with Councilmember Petershagen and is suggesting the time for reviewing and amending

the sign codes be extended from six months to twelve months from the date the motion was passed. This will allow time to complete a legitimate process, and if it does not take the full twelve months, a new ordinance can be passed sooner. Mayor Spencer commented this topic was brought up by the Council, the Council will be dealing with the topic and he does not believe it makes sense for the Planning Commission to be involved. He requested an amendment to the motion and to the code that this be a topic that Staff work with the Council on in both workshops and in more formal ways to address the code and not have it go before the Planning Commission.

Planning Director Wright clarified the public hearing is scheduled in October, and City Attorney Rubstello clarified the time to make any changes to the ordinance is at the time of the Public Hearing, including any changes to the interim regulations.

Councilmember Gailey asked if there is a recording of the clarifying discussion between the City Attorney and Councilmember Daughtry following the August 7th meeting. City Clerk Pugh responded she has no knowledge of a recording of that conversation.

Responding to Councilmember McDaniel's question, Attorney Rubstello said the conversation between himself and Councilmember Daughtry took place the morning after the August 7th meeting, and that he called Councilmember Daughtry to confirm his understanding of the motion and what needed to be done to the ordinance. Further responding to Councilmember McDaniel's question, Attorney Rubstello said this is not done all of the time, but the problem in this instance was the motion as made was a narrative direction of what to do rather than actual code language that was being requested to be changed. Attorney Rubstello added this was a short conversation.

Responding to Councilmember Gailey's question as to whether the motion in the minutes is accurate, Attorney Rubstello said the motion is accurate.

Councilmember McDaniel commented the City Attorney is the Council attorney and she believes it is inappropriate for the City Attorney to have a private conversation with one councilmember regarding what the councilmember asked to be passed without a public meeting or a quorum. She commented people can change their minds six or eight hours later after thinking how they could that have better worded a motion.

Attorney Rubstello responded he would not frame the conversation that way and clarified what was discussed was how Attorney Rubstello understood the motion. Attorney Rubstello said his understanding of the motion was confirmed.

Councilmember McDaniel commented all councilmembers should have received an email of the conversation. Attorney Rubstello said this can be done and he will be happy to do so in the future.

Councilmember Gailey commented in the motion it asked for the sign size to be taken out of the four paragraphs, but in reality all four paragraphs were taken out completely, which takes out sign size. Attorney Rubstello responded the language in the narrative of the motion was broader than just taking out language. It refers to the two code sections, and so those two sections were stricken from the ordinance as it was drafted. Attorney Rubstello understood that was the direction of the motion and so that is how the ordinance was amended to conform to the motion. Attorney Rubstello added if there is disagreement as to what should be in the

ordinance, it can certainly be addressed when the interim ordinance comes back for Council consideration.

Councilmember McDaniel commented for her it is about proper process, the Open Public Meetings Act, and giving the people here the knowledge that when things are passed they are not re-explained the next day.

Attorney Rubstello does not believe that is what occurred. He added that he understands Councilmember McDaniel's comments and said his intent was not to do something different from the actual motion that was passed; he believes the sign ordinance reflects the motion.

Councilmember McDaniel requested in the future that if the City Attorney contacts a councilmember for clarification on an action item, all councilmembers be advised of the communication and the communication be made a public record.

Executive Session: At 8:06 p.m. Mayor Spencer announced an executive session beginning in approximately 5 minutes to last 20 minutes to discuss two matters (property near boat launch and property the City proposes to sell to Costco) with possible action to follow, and Collective Bargaining. Mayor Spencer added Collective Bargaining will be taken up first. Mayor Spencer noted for the record that Councilmember Tageant is not present and is not participating in the executive session.

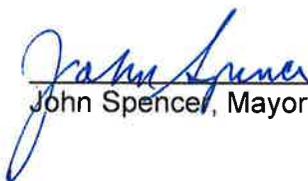
At 8:28 p.m. Administrator Brazel announced the executive session is extended ten minutes.

Councilmember Hilt left the meeting at 8:36 p.m.

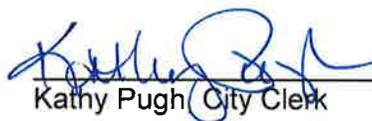
At 8:38 p.m. the regular meeting of the City Council reconvened.

Adjourn:

Moved by Councilmember McDaniel, seconded by Welch, to adjourn the meeting at 8:38 p.m. On vote the motion carried (6-0-0-1).



John Spencer, Mayor



Kathy Pugh, City Clerk